

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed March 5, 2004. Reconsideration and allowance of the application and presently pending claims 1-44, as amended, are respectfully requested.

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 1-44 are pending in the present application. More specifically, claims 1, 2, 4, 6, 8, 11, 14, 19-22, 25 and 30 are directly amended and claims 31-44 are added. These amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application.

2. Response to Rejection of Claims 1-4, 8-9, 11-12, 14-15, 17-23, 25-26 and 28-30 Under 35 U.S.C. §102(e)

In the Office Action, claims 1-4, 8-9, 11-12, 14-15, 17-23, 25-26 and 28-30 stand rejected under 35 U.S.C. §102(e) as allegedly being unpatentable by *Fujimoto* (U.S. Patent 6,104,937).

a. Independent Claims 1, 11, 19, 21, 22 and 30

For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988). Applicants respectfully submit that independent claim 1, as amended, is allowable for at least the reason that *Fujimoto* does not disclose, teach, or suggest the feature of a transmitter or transmitter “configured to transmit the packetized digital communication signal onto a telephony system subscriber loop” such that a “packetized digital communication signal” is communicated, as recited in claims 1, 11, 19, 21, 22 and 30.

Applicants believe that *Fujimoto* does not disclose, teach, or suggest conserving power in any type of a transmitter or transmitter unit configured to transmit *the packetized digital communication signal* onto a telephony system *subscriber loop*. At most,

Fujimoto discloses “a power controller for powering off the transceiver except the input detector in a first state in which the input signal is not detected and for powering on the transceiver in a second state which the input signal is detected. In cases where each station is in the first state, the transceiver except the input detector is powered off. Therefore, the total power consumption of the stations is reduced in the first state. The input detector may be powered on and off in a predetermined period in the first state” (Col. 1, lines x-y). Nowhere does *Fujimoto* disclose any transmitter or transmitter unit that is configured to operate on a subscriber loop.

Accordingly, *Fujimoto* does not disclose, teach, or suggest a transmitting unit or transmitting device that is configured to transmit a ***paketized digital communication signal*** on ***a subscriber loop***. Thus, *Fujimoto* does not anticipate claims 1, 11, 19, 21, 22 and 30, and the rejection should be withdrawn.

b. Dependent Claims 2-4, 8-9, 12, 14-15, 17-18, 20, 23, 25-26 and 28-29

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-4 and 8-9 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-4 and 8-9 contain all features/elements of independent claim 1. Similarly, because independent claim 11 is allowable over the cited art of record, dependent claims 12, 14-15 and 17-18 (which depend from independent claim 11) are allowable as a matter of law for at least the reason that the dependent claims 12, 14-15 and 17-18 contain all features/elements/steps of independent claim 11. Furthermore, because independent claim 19 is allowable over the cited art of record, dependent claim 20 (which depends from independent claim 19) is allowable as a matter of law for at least the reason that the dependent claim 20 contains all features/elements/steps of independent claim 19. Also, because independent claim 22 is allowable over the cited art of record, dependent claims 23, 25-26 and 28-29 (which depend from independent claim 22) are allowable as a matter of law for at least the reason that the dependent claims 23, 25-26 and 28-29 contain all features/elements of independent claim 22. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to these claims should be withdrawn.

3. Response to Rejection of Claims 5, 10, 13, 16, 24 and 27 Under 35 U.S.C. §103

In the Office Action, claims 5, 10, 13, 16, 24 and 27 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Fujimoto*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

Because independent claim 1 is allowable over the cited art of record, dependent claims 5 and 10 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 5 and 10 contain all features/elements of independent claim 1. Similarly, because independent claim 11 is allowable over the cited art of record, dependent claims 13 and 16 (which depend from independent claim 11) are allowable as a matter of law for at least the reason that the dependent claims 13 and 16 contain all features/elements/steps of independent claim 11. Furthermore, because independent claim 22 is allowable over the cited art of record, dependent claims 24 and 27 (which depend from independent claim 22) are allowable as a matter of law for at least the reason that the dependent claims 24 and 27 contain all features/elements of independent claim 22. Accordingly, the rejection to these claims should be withdrawn.

4. New Claims

New claims 31-44 are based on subject matter that is explicit and/or inherent within the description of the specification and/or the drawings. Applicants submit that no new matter has been added in the new claims 31-44, and that new claims 31-44 are allowable over the cited prior art. Therefore, Applicants request the Examiner to enter and allow the above new claims.

Applicants further note, with respect to the new claims, that *Fujimoto*, and the other references of record, primarily relate to power conservation techniques in mobile devices

where power consumption is of critical importance given limited battery life of the mobile devices.

A transmitter unit or transmitting device that adheres to the OSI seven-layer model configured to transmit the packetized digital communication signal onto a telephony system subscriber loop is coupled to a power source that is constantly supplied by the power grid, as is well understood by those skilled in the art. Accordingly, because of the constant power supply, the need of power conservation had not been contemplated by those skilled in the art (until conception of the present invention) for a transmitter or transmitter unit that adheres to the OSI seven-layer model configured to transmit the packetized digital communication signal onto a telephony system subscriber loop.

Before conception of the present invention, "electrical code requirements, regulations and/or rules pertaining to the heat generated by digital communication system components may limit the size of the digital communication system addition or expansion. Such code requirements specify the maximum heat generation allowed per unit size of floor space and/or per unit size of cabinet volume. In other situations, limited physical space may be available within the CO 22 for digital communication system additions or expansions. Consequently, a more compact construction of the digital communication system components may be desirable. Also, available power supplies and the load carrying capacity of existing facilities, which provide the power to the digital communication system additions or expansions, may be limited. Therefore, it is desirable to reduce power consumption in at least some of the components of a digital communication system. Reducing power consumption would facilitate a more compact construction of an electrical code compliant digital communication system addition or expansion." (Specification, page 6, line 15 through page 7, line 4.) This new and unexpected benefit provided by the novelty of the present invention distinguishes over the art of record which relates to mobile devices where a limited power supply is at issue.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now 1-44 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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